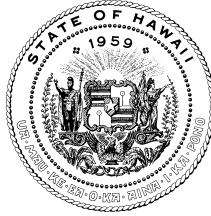


LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

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CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**MINUTES
OAHU ISLAND BURIAL COUNCIL MEETING**

DATE: WEDNESDAY, JANUARY 10, 2007
TIME: 10:00 A.M.
PLACE: DEPARTMENT OF LAND & NATURAL RESOURCES
1151 PUNCHBOWL STREET, ROOM 132
HONOLULU, HAWAII 96813

ATTENDANCE:

Members:	Kawika McKeague, Vice Chair	Cy Bridges
	Charles "Chuck" Ehrhorn	Alice Greenwood
	Analua Josephides	Andrew Keliikoa
	Kalei Kini	Kehaulani Kruse
	Aaron Mahi	Linda Kaleo Paik
Absent:	Kehau Abad, Excused	
	Jace McQuivey, Excused	
Staff:	Melanie Chinen, Administrator	
	Vince Kanemoto, Deputy AG	
	Susan Yanos, Secretary	
Guests:	Ben Ortega, Fifield Company	Dawn Chang, Ku'iwalu
	Hal Hammatt, Cultural Surveys Hawaii	Eric Nishimoto, DAGS
	Ernie Lau, DAGS	Ka'anohi Kaleikini

I. CALL TO ORDER & ROLL CALL

Vice-chair Kawika McKeague called the meeting to order at 10:05 am. Yanos took roll call. The majority of the members were present and quorum was established. Josephides said a pule.

II. INTRODUCTION OF COUNCIL MEMBERS AND SHPD STAFF

Council members and SHPD staff introduced themselves.

III. OPENING REMARKS

McKeague informed the public that these meetings are held for the council to receive information and make determinations on the preservation or relocation of previously identified burial sites and reminded the public that the council has established a four-minute testimony policy.

(Mahi enters at 10:12 am.)

IV. APPROVAL OF DECEMBER 13, 2006 MEETING MINUTES

Changes by Josephides: Page 6, paragraph 4, add “as a primary source.” after “. . . and Krauss”); and delete “. . . to cite the number of kupuna . . .” replace with “The book should not be used as a source for census statistics determining the amount of people living”.

Motion was made and seconded to approve the minutes as corrected.
(Paik/Josephides)

VOTE: ALL IN FAVOR. Motion carries.

McKeague deferred the approval of the executive session minutes until the end of the meeting.

V. COUNCIL ACTIONS

A. Recognition of Lineal/Cultural Descendants

Burial Treatment Plan for the Allure Waikiki Development Project

Waikiki Ahupua‘a, Kona District, Island of Oahu [TMK: (1) 2-6-13: 1, 3, 4, 7-9, 11 & 12]

Information/Discussion/Recommendation/Determination: Recognition of lineal and/or cultural descendants.

(Bridges enters at 10:30 am)

Chinen stated that the Department received applications from 39 claimants. Chinen referred the council to her memo dated January 10, 2007, and read into the record the Department's recommendation to recognize the individuals listed below as cultural descendants to the burials on the Allure Development Property in Waikiki.

Eileen Norman
Debbie P.K. (Norman) Kini
Puahone K. Kini-Lopes
Kamaha'o S.L. Lopes
Nalani K. Kini
Carolyn D.K. Norman
Justin K. Keli'ipa'akaua
Chase K. Keli'ipa'akaua
Theodore R.K. Norman
Kaleo K. Norman
Kimberly K. (Norman) Suzuki
Ashley I. Suzuki
Chelsea M. Abordo
Jadelyn Kealohilani Heanu
Gilbert Kahokuokalani Heanu
Kyle Ikaika Wai Kueng Heanu
Michael Alan Lani Keaweamahi Jr.
Shanlyn Maile Kanohokula
Kainoa Kaneokawaiola Naeole
Alvina Napua Pauoi

Paulette K. Kaleikini
Moani K. (Kaleikini) Keli'inoi
Kalahikiola Keli'inoi
Kilinahe Keli'inoi
Tuahine P. Kaleikini
Ali'ikaua Kaleikini
Kala W. Kaleikini
No'eau K. Kaleikini
Haloa Kekoo Namakaokalani Kaleikini
Keli'inui K. Norman
Nicole K. Gulia-Thoene
Cara K. Arcalas
Sharleen Kealohilani Heanu
Arthur Lanakila Heanu Jr.
Glenn Ioane Heanu
Russell Kahokuokalani Wai Hong Heanu
April Leimomi Keaweamahi
Joelle Kamakaonaonaonapua Naeole
Eryke Kalani Naeole-Kawainui

Paulette Kaleikini provided some additional information showing that her ohana has a closer tie to the property. She stated that she found documents in her ohana records that shows that the two LCAs listed in the map in the burial treatment plan were deeded to her kupuna, G. W. Keaweamahi, in 1884. She cited other errors in the LCA that the developer used in the burial treatment plan. She felt that the developer should have used a more current map, which cites the LCAs. McKeague asked Kaleikini if her intent was to seek lineal descendancy with the information she provided. Kaleikini said no because they did not know whom the individuals in the burials were.

Josephides stated that he is familiar with the issue of misspellings from his own work as a genealogist. Kaleikini stated that more care should be taken by the facilitators when transcribing and spelling kupuna names in the burial treatment plans or newspaper. If the names are misspelled, people may not know that is their kupuna.

Josephides added that although we cannot change the spelling on the maps, he recommended that the correct spelling should be noted in the reports/documents. He suggested that authors of these reports and plans do the research and consult with OHA, historical records, and genealogists before making the notations.

McKeague directed the council back to the matter of recognizing the applicants as cultural descendants. Greenwood stated that in addition to just having a list of people up for recognition, she would like to also see the applicants at the meeting.

Motion was made and seconded to accept the recommendation provided by the Department in the January 10, 2007 memo of the 39 claimants seeking recognition as cultural descendants. (Greenwood/Kruse)

VOTE: ALL IN FAVOR. Motion carries.

Ehrhorn stated that in the past, the council did not take action on recognition if the applicant was not present at the meeting. However, he added that if 30 applicants were in this room, it would get a little stuffy.

Paik did not agree that all applicants had to be present to be recognized as descendants because some applicants live on other islands. She felt that it was selfish of the council to expect the claimants be present and felt that the Department's review of an applicant's genealogy and recommendation should be sufficient.

Greenwood stated that her reason for wanting the applicants to be present is because she has been told in the past that people were unaware that their names were listed for recognition. She also stated that she would like to know the ages of the applicants.

Kaleikini asked why Greenwood wanted to know the applicants' ages because the rules do not require the ages to be presented. Kaleikini stated that age is irrelevant as long as they are descendants of the kupuna.

Keliikoa stated that the council approved the motion and any discussion regarding this issue should have taken place during the discussion period after the motion was made. Keliikoa asked that the council move on to the next issue.

B. Burial Treatment Plan for the Allure Waikiki Development Project

Waikiki Ahupua'a, Kona District, Island of Oahu [TMK: (1) 2-6-13: 1, 3, 4, 7-9, 11 & 12]

Information/Discussion/Recommendation/Determination: Informational presentation by Ku'iwalu on the burial treatment plan. Council discussion and recommendations on the proposed measures in the burial treatment plan. Council determination to preserve in place or relocate the previously identified burials located on the property.

Dawn Chang of Ku'iwalu and Ben Ortega, Fifield Company addressed the council on the burial treatment plan for the Allure Waikiki Development Project (fka the Fifield project). Chang once again gave a brief review of the project, which she presented to the council in previous meetings. She stated that they have been consulting with three principal families (Kaleikini, Kuhea, and Keohokalole) regarding the burials on the property.

Chang stated that it was clear that Paulette Kaleikini and her ohana had a very close tie to the property and Kaleikini demonstrated a very sincere and genuine interest to malama the kupuna that were there.

Chang stated that initially they had proposed that Burial 1 be preserved in place and Burial 2 be relocated because Burial 2 is located where the parking structure would be

built. However, the council and the Kaleikini Ohana indicated their preference to preserve Burial 2 in place. The developer asked their engineers to look at how Burial 2 could be preserved and protected given the construction restraints without moving the parking structure. Their solution would be to encase Burial 2 in a cement vault with no bottom and lid. Since Burial 2 was close to the water table, they were initially concerned that the water table will erode and wash the burial away. However, the family felt strongly that that was natural and pono. Chang explained that the vault would not have a lid either because they do not intend to put any more burials within that space. The parking structure will be built around the burial; there will be no cars parked on it; there will be a ceiling and the parking structure above it, but there will be nothing directly above it.

Chang briefly discussed some landscaping options for the burial sites and stated that they are working with the landscape consultant to incorporate native plants on the site.

Chang stated that they are now proposing to preserve in place Burials 1 and 2. She added that their initial burial treatment plan submitted to the Department was proposing to relocate Burial 2, but the document included a section discussing the potential to preserve Burial 2 in place. She stated that they would coordinate with SHPD the specific language to preserve Burial 2 in place.

Chang briefly described the interim measures, which presently protect the burial sites. She informed the council that they would like to start the process to preserve Burial 2 soon so that as construction begins the burial will not be harmed.

Chang stated that they have talked to the ohana about possible future inadvertent discoveries on the property and a preservation site near Burial 1 for those remains. She reiterated that they understand that will be determined on a case-by-case basis and they will consult with SHPD and the ohana regarding any future inadvertent discoveries.

Chang stated that the developer wants to pay their respects to the property. They want to tell the future residents of this property who was here before, what kinds of things they did, etc. Chang described some decorative features that will be incorporated in the project. Chang stated that the developer has given them great liberty to work with the families and community to try to develop a project that pays respect to the host culture and she has applauded the developer for that.

Josephides commended and thanked Chang for her work on the project – for being the point between the developer and the descendants. He then commended the developer for listening to the Hawaiian people.

Kaleikini also commended the developer. She was told that when Burial 1 was discovered, the developer started to redesign the area right away. She added that when Burial 2 was discovered, the area had already been designed, but the developer is still taking measures to protect the iwi kupuna. She is appreciative of that and is happy with their designs of the project. She hopes this sets the precedence for future developers.

McKeague asked Chang if they have any information from other families to add. Chang stated that she spoke to Kealoha Kuhea, who informed her that he would be submitting his application. Chang stated that Kuhea indicated a preference to relocate Burial 2. She added that the Keohokalole family said they were not going to submit their application to be recognized. Chang stated that she did not discuss with the Keohokaloles about their preference to preserve in place or relocate the burials, but the ohana did say that they would like to be kept informed about the project.

Motion was made and seconded to approve the burial treatment plan to preserve in place Burial #1 and Burial #2 for the Allure Waikiki Development project.
(Kini/Kruse)

VOTE: ALL IN FAVOR. Motion carries.

C. Recognition of Lineal/Cultural Descendants

Burial Treatment Plan for the Leeward Coast Emergency Homeless Shelter Project
Wai‘anae Ahupua‘a, Wai‘anae District, Island of Oahu [TMK: (1) 8-5-028:041]
Information/Discussion/Recommendation/Determination: Recognition of lineal and/or cultural descendants.

Chinen referred the council to her memo dated January 10, 2007, and read into the record the Department's recommendation to defer Mr. Alika Poe Silva's application for recognition as a lineal descendant to the burial discovered at the Leeward Coast Emergency Homeless Shelter Project because it is unclear whether the burial located at the project site is that of Tutu Kahala.

Josephides asked if the Silva Ohana has been recognized as cultural descendants and Chinen stated that they are recognized as cultural descendants to other burials in this ahupua‘a. Chinen added that she wanted to recommend Mr. Silva as cultural for this project, but he indicated to her that he would consider it a slap on the face to be recommended for cultural because they truly believe they are lineal descendants. Chinen stated that she explained to Mr. Silva that recognition is a two-pronged process and it would provide him greater legal protection if he was at least recognized as a cultural descendant. Chinen also explained to Mr. Silva that the council may decide to recognize him as cultural for that reason and it would not be meant to discredit his family but to help them. However, Mr. Silva asked that Chinen not recommend that he be recognized as a cultural descendant.

Ehrhorn asked if Mr. Silva knew that Chinen was going to recommend deferral of his claim. Chinen stated that she told Mr. Silva that according to the rules and laws, the Department does not have enough information to recommend lineal descendancy, and Mr. Silva understood that she would be recommending deferral.

Greenwood stated there were a lot of recommendations by this council to recognize this family as lineal descendants in the past. Greenwood stated that she helped one of the

aunties with their genealogy research and found that their claims for lineal to a lot of the burials did not exist. Greenwood stated that she was aware of who the person at this burial site is.

Josephides asked whether all the Silva family's requests for lineal were deferred in the past. Chinen stated that she does not know if they have been deferred on any lineal claims in the past. However, Chinen stated that she met with members of the Silva family a few nights ago and explained to them how the Department applies the rules in recommending lineal descendancy and also informed them that the Department is now very cautious on how it makes recommendations. She explained that the family must identify the individual in the burial and must be able to demonstrate through oral testimony and other historical records that they have a genealogical connection to the burial. Otherwise the Department will not recommend lineal. Chinen said that in the past, the Department had recommended this family as lineal to burials where names and sites were not identified – they were recognized as descendants to all burials in an entire park area.

Greenwood stated that there has been a lot of rebuttal from the Waianae community questioning a lot of the things done in the past. She said that she would be cautious because the council is impacted by a lot of the things that has happened in the past.

Ernie Lau, DAGS, addressed the council and stated that Kaulana Park could not attend today's meeting because of a conflict in his schedule. Lau stated that they will respect the council's decision and will work with SHPD.

Motion was made and seconded to accept the Department's recommendation to defer recognition on this project. (Paik/Ehrhorn)

VOTE: ALL IN FAVOR. Motion carries.

**D. Burial Treatment Plan for the Leeward Coast Emergency Homeless Shelter Project
Wai'anae Ahupua'a, Wai'anae District, Island of Oahu [TMK: (1) 8-5-028:041]**

Information/Discussion/Recommendation/Determination: Informational presentation by Cultural Surveys Hawaii, Inc., regarding the burial treatment plan prepared for the Leeward Coast Emergency Homeless Shelter Project. Council discussion and recommendations on the proposed measures in the burial treatment plan. Council determination to preserve in place or relocate the previously identified burial located on the property.

Hal Hammatt, Cultural Surveys Hawaii, reviewed the information on this project, which he presented to the council in previous meetings. He stated that they are proposing to preserve the burial in place with a buffer zone. He added that the trench in which the burial was found was back-filled and a large rock was placed above the burial. Hammatt said that the long-term proposed treatment of the burial calls for a soil mound with a rock on top of that and building a wall around the site.

Hammatt addressed the LCA (Kukanono 8307) since there was some confusion about it and the maps in the burial treatment plan. He explained that they take all the historic

maps of the area, which they have in a GIS database. They try to find common locations that they can geo-reference and overlay on another map. Many times they use very prominent points along the coastline or known features of the land that have been there for a very long time and have not moved. Then they key it into a second map and overlay them and come up with a composite. They have to consider that surveyors made these historic maps and there were errors on these maps.

As to whether Kukanono's LCA is actually within the project area, the map on Page 17 in the burial treatment plan shows the Kukanono LCA on the western portion, outside the project area. Hammatt referred the council to the map on Page 19, Figure 8, which shows this area of Waianae as a military reservation. He stated that Figure 8 shows the north portion of the project area which actually includes a little bit of Kukanono's LCA. He believes that is the case because that same pattern is repeated in other maps. Hammatt concluded by stating that Kukanono's LCA is designated by a stone wall and this map shows the overlap. Therefore, Hammatt believes LCA 8307 is right on the edge of the project area and he believes that it is very close to the burial.

Ehrhorn asked if Mr. Silva knows about the burial treatment plan and concurs with it. Chinen stated that Mr. Silva favors preservation in place, but he has concerns with the use of the lava rock because their family likes to use coral. Chinen described the Silva family's proposal on how they would like the burial preserved, using coral rock on the sides and a single rock erected in the middle of the burial (Mr. Silva described this as a "pae pae" type of structure). Chinen expressed to Mr. Silva her concerns because children will be residing at the site and we would not want them to see that as something they can play on. Silva also expressed his concern about the burial's location, which is toward the back of the property. It is also near the high school and some low-income housing, where a lot of drug activity occurs at night. Their concern is that people will hang out in that area. She stated that the family is requesting that another wall be built in addition to the permanent buffers and that DHHL and DAGS consider making that wall out of coral. Chinen stated that the buffers would have to be clarified in the burial treatment plan because the size of the buffer zones is inconsistent throughout the report.

Paik expressed her opinion that the fear of the children desecrating the burial is driving us to do something culturally inappropriate. She stated that if you teach the children that this is something that needs to be honored, they are less likely to desecrate. She does agree that a lava rock wall is out of character for the Waianae area and would draw attention to the burial.

Greenwood stated that the low-income housing project that is located near the burial site is a gated area with one way in and one way out.

Keliikoa felt that since Mr. Silva has not yet been recognized as lineal or cultural descendants to the burial, his recommendations on the burial treatment plan may not be appropriate at this time and should not be included in any motion made today.

Kanemoto confirmed that the law provides recognized cultural and lineal descendants some say in the matter of treatment of burials. However, under the law, Mr. Silva does

not have the legal position to have input in this matter. McKeague asked if a motion could be made to say “preservation in place subject to possible recognition of lineal descendants”. Kanemoto stated that Mr. Silva ultimately may be recognized as a lineal descendant, and he is recommending preservation in place. However, the matter of treatment of the burial has to be determined by the Department in collaboration with the developer, archaeologist, and recognized descendants. Kanemoto explained that the matter of the treatment of the burial can be addressed at later time, because once the council makes the determination, the Department will have 90 days to approve the burial treatment plan. During that 90-day period, the collaboration with the Department and any recognized descendants (lineal or cultural) will occur.

McKeague reiterated that the council’s role today is to determine preservation in-place or relocation of this burial and not to determine the burial treatment plan. Josephides added that the council can make recommendations to the Department concerning the burial treatment plan.

Josephides stated that, he would like to recommend that limestone be used instead of lava rock. He stated that he comes from that community and pointed out to the council that the wall that runs throughout Nanakuli along the beach is made of the limestone.

McKeague proposed that the council do two things: 1) make the determination to preserve in place or relocation; and 2) list recommendations for the burial treatment plan.

Ernie Lau asked the council’s kokua in expediting this matter because there are many families with children on the beaches that they are trying to help. Their goal is to complete construction by the end of January.

Motion made and seconded to preserve in place the burial found at the Leeward Coast Emergency Homeless Shelter Project. (Josephides/Kini)

VOTE: ALL IN FAVOR. Motion carries.

Josephides recommended that SHPD and Cultural Surveys Hawaii look at what materials could be used for this burial, but he strongly recommended that limestone be used because that is prevalent in that area.

Paik recommended that DAGS and Cultural Surveys Hawaii work closely with any possible descendants. She stated that even though the Silva family was not recognized as lineal today, by law they are cultural descendants anyway.

E. Discussion on Council Direction, Goals and Objectives

Information/Discussion/Recommendation: Council discussion and recommendation of the council’s direction, goals and objectives.

McKeague reminded the council that this agenda item is included in every meeting

because it serves as an opportunity for the council members to share anything they have on their minds.

Josephides stated the issue of recognizing minors as descendants should be addressed. Chinen informed the council that she is planning to convene a meeting with all the council chairs and vice-chairs and perhaps this issue could be discussed in that venue. Josephides added that when this issue is discussed with the other burial council chairs and vice-chairs, it should be understood that traditionally, some families do train their children at a young age in the practices and rites.

Paik commented that the main spirit of serving on the burial council is "why we do it" – "how to do it" is not as important as the "why".

Kini asked if there were any legislative bills that the council needs to be aware of. Chinen stated that the only bill that SHPD was currently involved in was a historic preservation tax credit. Chinen informed the council about SHPD's budget requests and Senator Fukunaga's intention to propose a bill appropriating funds to SHPD for staff and earthquake response.

Without specifying the particular issue, Keliikoa commended Chinen on taking a position on an issue and sticking to it.

F. Status update on Section 106/NAGPRA Correspondence

Information/Discussion/Recommendation: Report from the council's designees established to screen the review of Section 106/NAGPRA Correspondence.

Greenwood reported that the Stryker project is still in litigation and that is why they are not able to come to make a presentation to the council, but she is still corresponding with them.

Greenwood also reported about the Vancouver, Washington West Banks Barracks land transfer to the City of Vancouver, Washington, issue. She read into the record her September 26, 2006 response to the City of Vancouver. Greenwood concluded her report by informing the council that the Indian nation that was involved with this matter investigated the culture and history of the area and they want to make sure the graves are well taken care of and the proper people are notified.

VI. SHPD INADVERTENT DISCOVERY REPORT

A. Board of Water Supply – N. Kalaheo Project Kailua Ahupua'a, Ko'olaupoko District, Island of Oahu

Chinen referred the council to the monthly summary report of inadvertent discoveries of human skeletal remains, which was previously provided to the members in their packets.

She read into the record the contents of the January 4, 2007 memo to the council.

Motion was made and seconded to go into executive session. (Ehrhorn/Josephides)

VOTE: ALL IN FAVOR. Motion carries.

Motion made and seconded to exit executive session. (Ehrhorn/Paik)

VOTE: ALL IN FAVOR. Motion carries.

VII. ADJOURNMENT

Before adjourning the meeting, McKeague reminded the council members that their Gift Disclosure Statements are due to the State Ethics Commission in May.

McKeague thanked everyone and adjourned the meeting at 12:05 p.m.

Respectfully submitted,

Susan P. Yanos, Secretary